



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE- 174439

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**PRELIMINARY RECITALS**

On May 17, 2016, the above petitioner filed a hearing request under Wis. Admin. Code §HA 3.03(1), to challenge a decision by the Division of Health Care Access and Accountability regarding Medical Assistance (MA). The hearing was held on June 16, 2016, by telephone.

The issue for determination is whether there is jurisdiction present to reach the merits of the petitioner's appeal.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: [REDACTED]

Division of Health Care Access and Accountability  
PO Box 309  
Madison, WI 53701-0309

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

### **FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Calumet County.
2. Petitioner has received MA reimbursement for mileage expenses for non-emergency medical transportation.

### **DISCUSSION**

The issue here is whether jurisdiction is present to reach the merits of the petitioner's appeal. Jurisdiction is available to review a denial, termination or reduction of MA. See, Wis. Adm. Code §HA 3.03(1). There is also jurisdiction when there is a failure to act on an application with reasonable promptness. Wis. Adm. Code §HA 3.03(1)(b). In this case however, petitioner's claims have not yet been denied, terminated or reduced to date, and as such there is no negative action for me to address. Rather, it appears that the agency has advised petitioner that the regulations governing reimbursement provide as follows:

Transportation provided by a county or tribal agency or its designee shall involve the least costly means of transportation which the recipient is capable of using and which is reasonably available at the time the service is required. Reimbursement to the recipient shall be limited to mileage to the nearest MA provider who can provide the service if the recipient has reasonable access to health care of adequate quality from that provider. Reimbursement shall be made in the most cost-effective manner possible and only after sources for free transportation such as family and friends have been exhausted.

See Wis. Adm. Code §DHS 107.23(3)(c)3.

Accordingly, this matter is not ripe for adjudication, and jurisdiction is not yet present. If petitioner is denied payment for claims, or has a termination or reduction, he can file for a fair hearing at that time.

### **CONCLUSIONS OF LAW**

This matter is not ripe for adjudication, and jurisdiction is not yet present.

**THEREFORE, it is**

**ORDERED**

That the petition for review be dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

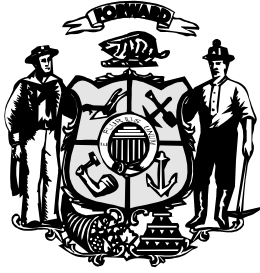
### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 11th day of July, 2016

\s \_\_\_\_\_  
Kelly Cochrane  
Administrative Law Judge  
Division of Hearings and Appeals



## State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 11, 2016.

Division of Health Care Access and Accountability  
[Soktheap.Pom@dhs.wisconsin.gov](mailto:Soktheap.Pom@dhs.wisconsin.gov)